

REMARKS

The Examiner's action dated September 15, 2009, has been received, and its contents carefully noted.

In that action, claims 27, 29-47 and 49 are rejected under 35 USC 103(a) is being unpatentable over Kil in view of Beyette, and claim 48 is rejected as unpatentable, under 35 USC 103 over Kil.

Those rejections are traversed on the grounds that the present applicants invented the subject matter of the rejected claims prior to the effective date of the Kil patent. The effective date of the Kil patent is its U.S. filing date, February 12, 2004. The invention defined in the rejected claims was conceived prior to that date, coupled with due diligence from prior to that date to a subsequent filing, in Israel, of a patent application disclosing the claimed invention and for which priority rights are claimed for the present application. The requisite priority claim has been filed and a certified copy of the priority document has been received from the International Bureau.

In order to establish applicants' earlier date of invention, submitted herewith are: a Declaration under 37 CFR 1.131 by the inventors establishing a date of invention prior to February 12, 2004, supporting declarations by each of the inventors and the Israeli patent attorney who was charged with drafting the Israeli priority application, and supporting documentary evidence attesting to the diligence of the inventors and the Israeli patent attorney during the critical period of 48 days between February 12, 2004, and April 1, 2004, the filing date of the Israeli priority application.

As will be demonstrated below, a draft of the Israeli priority application, which was prepared prior to February 12, 2004 (a copy of which draft is submitted herewith as Exhibit E), discloses the subject matter of the present claims which the examiner asserted to be disclosed in the Kil patent, the other claim limitations having been determined by the examiner to render the claims obvious over that patent. This is all that is required in order to antedate a reference. Note MPEP §715.02, where it states:

[W]here the differences between the claimed invention and the disclosure of the reference(s) are so small as to render the claims obvious over the reference(s), an affidavit or declaration under 35 USC 1.151 is required to show no more than the reference shows. *In re Stryker*, 415 F.2d 1340, 168 USPQ 372 (CCPA 1971).

In section 5 of the examiner's action of September 15, 2009, at pages 8-10, the examiner identified the limitations of claim 27 that were allegedly disclosed in the Kil patent. These limitations are reproduced below and the portions of the draft application for Israeli patent prepared prior to February 12, 2004 (Exhibit E submitted herewith), that disclose those limitations are listed beneath each of them, in italics and indented:

A method of supporting an incoming/outgoing mobile communication session in a combined communications network comprising a mobile network and a non-mobile access network

Page 3, lines 3-9

in said mobile network, said mobile communication session is associated with a mobile number

Page 4, lines 3-17, and page 7, lines 5-12

the method comprises: providing, at an access node between the non-mobile access network and the mobile network, an access device comprising a Digital Service Line Access Multiplexer (DSLAM) or an Optical Line Termination (OLT)¹, the access device being in communication with a plurality of non-mobile devices in the non-mobile access network

Page 4, lines 3-1, and page 7, lines 5-12

providing the access device with a capability to perform functions of a base station with respect to at least one said mobile number of said mobile network, so that the access device is recognized by the controller of the mobile network as a base station

Page 10, lines 14-18

by assignment in the access device, associating said mobile number with a non-mobile device of said non-mobile network, wherein said non-mobile device being either a DECT-like device, or a fixed device

Page 3, lines 13-16, and page 4, lines 18-20

routing said mobile communication session, by said controller of the mobile network, via said access device as via the base station

Page 4, lines 20-25

selectively conducting said mobile communication session via said access device either through a mobile device associated with said mobile number in the mobile network, or through the non-mobile device associated with said mobile number in the non-mobile network

Page 2, line 15, to page 3, line 9, and page 5, lines 4-12.

¹ Kil does not disclose an OLT.

The limitations of claim 48 that were identified in the explanation of the rejection as being disclosed in the Kil patent are reproduced below and the portions of the draft application for Israeli patent prepared prior to February 12, 2004 (Exhibit E submitted herewith), that disclose those limitations are listed beneath each of them, in italics and indented:

An access device of a non-mobile access network for serving in a combined communication network comprising the non-mobile access network and a mobile network, the access device comprising a DSLAM or an OLT¹

Page 3, lines 3-9, and page 7, lines 5-12

being capable of performing, at least partially, functions of a base station of the mobile network; being recognizable by said controller as a base station of the mobile network

Page 10, lines 14-18

being adapted to routing there-through a mobile communication session

Page 4, lines 20-25

and to selectively conducting said mobile communication session either through a mobile device of the mobile network, or through a non-mobile device of the non-mobile network.

Page 2, line 15, to page 3, line 9, and page 5, lines 4-12.

Furthermore, a consideration of Exhibit E will readily reveal that all of the limitations in the dependent

¹ Kil does not disclose an OLT.

claims that are asserted to be disclosed in the Kil patent are also disclosed in Exhibit E.

In view of the foregoing, it is submitted that the declarations filed herewith clearly establish a date of conception of the claimed invention prior to the effective date of the Kil patent, together with diligence from a date prior to the filing date of the Kil patent until the filing of the Israeli priority application.

Accordingly, it is requested that the rejections of record be reconsidered and withdrawn, that claims 27 and 29-49 be allowed, and that the application be found in allowable condition.

If the above amendment should not now place the application in condition for allowance, the examiner is invited to call undersigned counsel to resolve any remaining issues.

Respectfully submitted,

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